REMARKS

Claims 1-21 were originally filed in the present application.

Claims 1-21 are pending in the present application.

Claims 1-21 were rejected in the February 21, 2007 Office Action.

No claims have been allowed.

Claims 1-21 remain in the present application.

Reconsideration of the claims is respectfully requested.

In Sections 1 and 2 of the February 21, 2007 Office Action, the Examiner rejected Claims 1-21 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,795,411 B1 to *Dino, et al.* (the "Dino reference") in view of U.S. Patent No. 5,638,412 to *Blakeney, et al* (the "Blakeney reference"). Applicants respectfully disagree and traverse the Examiner's arguments in support of the rejection.

Claim 1 of the present application requires:

> For use in an IS-2000-compatible wireless network, a mobile station capable of receiving data from a first base station of said wireless network simultaneously in a first code division multiple access (CDMA) channel and a second CDMA channel, wherein said mobile station is capable of transmitting a capability message to said first base station, said *capability message comprising a field indicating that said mobile station is capable of simultaneously operating in a Forward Packet Data channel (F-PDCH) and a Forward Supplemental channel (F-SCH). (emphasis added).*

Notably, Claim 1 of the present application requires that the capability message include a field indicating that the *mobile station* is capable of *simultaneously* operating in *a Forward Packet Data channel (F-PDCH) and a Forward Supplemental channel (F-SCH).*

The Dino reference, either alone or in any combination with the Blakeney reference, fails to teach or disclose all the required elements of Claim 1 and its dependents. For example, the cited references fail to teach or disclose a *capability message* indicating that the mobile station is capable of *simultaneously* operating in *a Forward Packet Data channel (F-PDCH) and a Forward Supplemental channel (F-SCH).*

In fact, the Dino reference teaches a system and method of changing the assignment of receiver fingers based *on transmit power control information*. Dino reference, Abstract. Although the Examiner cites to column 3, lines 30-43 and 54-60 for support, the cited sections of the Dino reference merely suggests that a base station could use communication downlink signals 112 and 114 - namely channel Ch2n (a data channel such as supplemental channel (SCH)) and channel Ch1n (a dedicated traffic channel). *Id.* at column 3, lines 52-58. Receiver channel elements of the mobile station, such as receiver fingers, are then assigned to receive the downlink signals. *Id.* at column 3, lines 58-60. There is no teaching, disclosure, suggestion or motivation within the Dino reference of a mobile station capable of *simultaneously* operating in *a Forward Packet Data channel (F-PDCH) and a Forward Supplemental channel (F-SCH)*, let alone any teaching or disclosure of a mobile station providing a base station with such information through the use of a capability message, as required by Claim 1.

Nonetheless, the Examiner goes on to suggest that after learning the teachings of the Dino reference, one skilled in the art would *seek out* another reference, the Blakeney reference, that teaches a system for a mobile station to negotiate service configuration over an access channel through the use of an *origination message*. Blakeney reference, Abstract and column 7, lines 55-59. There is, however, no teaching, disclosure, suggestion or motivation within the Blakeney reference of a mobile station capable of *simultaneously* operating in *a Forward Packet Data channel (F-PDCH) and a Forward Supplemental channel (F-SCH)*, let alone any teaching or disclosure of a mobile station providing a base station with such information through the use of a *capability message*, as required by Claim 1.

As shown above, there is no suggestion or motivation within either of the cited references to prompt one of ordinary skill to selectively combine discrete elements from each and then *seek out* still other elements, as required by Claim 1 and its dependents. Similar arguments exist for Claims 9, 15 and their respective dependents. Likewise, similar arguments exist for independent Claim 21.

Accordingly, Applicant respectfully requests favorable reconsideration and the withdrawal of the §103 rejection.

SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at ***jmockler@munckbutrus.com***.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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